# IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

## SPECIAL CIVIL APPLICATION No. 9973 of 2001

**For Approval and Signature:**

**HONOURABLE MR.JUSTICE AKIL KURESHI**

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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**GUJARAT STATE ROAD TRANSPORT CORPORATION - Petitioner(s)**

**Versus**

**MANILAL A BHANGI DIED DURING PENDENCY THROUGH - Respondent(s)**

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**Appearance :**

MR ASHISH M DAGLI for Petitioner(s) : 1,
RULE UNSERVED for Respondent(s) : 1,
MR SK BUKHARI for Respondent(s) : 1,

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**CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI**

**Date : 14/09/2005**

**ORAL JUDGMENT**

1. In the present petition, the petitioner State Road Transport Corporation has challenged the legality of the

award dated 31st August, 2000. By the impugned award the Labour Court was pleased to allow the reference of the workman Manilal Atmaram. His termination dated 15/1/1990 was held to be illegal and in violation of the provisions of the Industrial Disputes Act and in violation of principles of natural justice. However, considering that the workman concerned had expired on 8/6/1999, the Labour Court did not pass any order of reinstatement but provided that the heirs of deceased workman be paid 100% back wages for the intervening period from the date of his termination till his death.

2. From the award of the Labour Court it can be seen that the workman was engaged as a sweeper in the year 1970. After 20 years of service, he was terminated in the year 1990 on the ground that he had fought with a conductor. The termination was without following any procedure . No inquiry was conducted nor any opportunity of being heard granted to him. Provisions of Section 25 F of the Industrial Disputes Act were also not followed. The decision of the Labour Court to set aside such a termination is, therefore, just and legal. Learned advocate Shri Dagli however submitted that without there being any inquiry about gainful employment to the workman

the Labour Court ought not to have granted 100% back wages. Learned advocate Mr.Bukhari for the respondents submitted that the Court may pass appropriate order moderating the directions for payment of back wages.

3. Considering the submissions made, it is provided that the heirs of deceased workman Manilal Atmaram who are respondents herein shall be paid 50% back wages by the petitioner corporation from 15/1/1990 till the death of the workman i.e. 8/6/1999. Subject to above modification the award of the Labour Court is upheld, petition allowed in part. Rule is made absolute accordingly with no order as to costs.

(Akil Kureshi, J.)

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